

**ASSEMBLY, No. 4429**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JULY 20, 2020

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**SYNOPSIS**

Establishes Open Public Records Act Review Commission.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing a commission to review the open public records  
2 act.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. The Legislature finds and declares that:

8 a. The State of New Jersey believes in an open and transparent  
9 government;

10 b. The open public records act, commonly referred to as  
11 “OPRA”, was adopted in 2001 to provide citizens with the ability to  
12 examine the records of their government;

13 c. Since 2001, administrative decisions and court rulings have  
14 been made to interpret how OPRA applies in day-to-day situations;

15 d. OPRA, at times, is challenging for the public to understand  
16 and for the records custodians to follow, such as when balancing the  
17 release of a document against a citizen’s right to privacy;

18 e. OPRA has had a positive impact, yet there are issues with  
19 harassment of records custodians and frequent requests by  
20 commercial entities;

21 f. The public demands efficient and cost effective access to  
22 government records;

23 g. The actual, day-to-day effect of OPRA should be reviewed to  
24 ensure that the intent of OPRA is being achieved and is as fair as  
25 possible to all interested parties; and

26 h. The establishment of a review commission is appropriate to  
27 examine how OPRA is being implemented and utilized.

28  
29 2. There is established a commission, to be known as the Open  
30 Public Records Act Review Commission, to consist of 15 members.  
31 The New Jersey Attorney General, the Commissioner of the  
32 Department of Community Affairs, and the Executive Director of the  
33 Government Records Council, or their designees, shall serve as ex-  
34 officio members. The Senate President shall appoint four members,  
35 not more than two of whom shall be a member of the same political  
36 party, one of whom shall be the chair of the Senate State Government,  
37 Wagering, Tourism and Historic Preservation Committee, one of  
38 whom shall be a Republican member of the Senate State Government  
39 Wagering, Tourism and Historic Preservation Committee, one of  
40 whom shall be a member of the general public with experience  
41 advocating for privacy rights, and one of whom shall be a member of  
42 the New Jersey Association of Counties. The Speaker of the General  
43 Assembly shall appoint four members, no more than two of whom  
44 shall be a member of the same political party, one of whom shall be  
45 the chair of the Assembly State and Local Government Committee,  
46 one of whom shall be a Republican member of the Assembly State  
47 and Local Government Committee, one of whom shall be an attorney  
48 with knowledge of and experience with the open public records act,

1 and one of whom, with the recommendation of the New Jersey  
2 League of Municipalities and the Municipal Clerks Association of  
3 New Jersey, shall be a municipal clerk. Four members shall be  
4 appointed by the Governor, no more than two of whom shall be a  
5 member of the same political party, one of whom, with the  
6 recommendation of the New Jersey Association of Counties, shall be  
7 a records custodian, one of whom shall be a member of the League  
8 of Municipalities, one of whom shall be a Mayor, and one of whom,  
9 with the recommendation of the New Jersey School Boards  
10 Association, shall be a school board records custodian.

11

12 3. The members of the commission shall be appointed and shall  
13 hold their initial organizational meeting within 45 days after the  
14 effective date of this act. The members shall elect one of the  
15 members to serve as chair and one of the members to serve as vice-  
16 chair. The chair may appoint a secretary, who need not be a member  
17 of the commission. The members of the commission shall serve  
18 without compensation, but shall be eligible for reimbursement for  
19 necessary and reasonable expenses incurred in the performance of  
20 their official duties within the limits of funds appropriated or  
21 otherwise made available to the commission.

22

23 4. The commission shall meet at the call of the chair. The  
24 commission shall hold at least three public hearings in different parts  
25 of the State and elicit testimony from the public at such times and  
26 places as the chair shall designate. A meeting of the commission  
27 shall be called at the request of eight of the commission's members  
28 and eight members of the commission shall constitute a quorum at  
29 any meeting thereof.

30

31 5. It shall be the duty of the commission to, at a minimum:

32 a. review OPRA and examine how the statute compares with  
33 actual operation and use;

34 b. review and evaluate the use of anonymous requests;

35 c. determine if OPRA is meeting its goal of open government,  
36 balanced with the public's right to privacy;

37 d. examine how OPRA has been used for commercial,  
38 marketing, business, research, and harassing or frivolous purposes;

39 e. study the fine structure and overall costs of OPRA to  
40 taxpayers;

41 f. consider such other matters relating to OPRA as the members  
42 of the commission may deem appropriate; and

43 g. make recommendations for legislation or such other action as  
44 it deems appropriate with regard to improving, expanding, and  
45 facilitating OPRA.

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47 6. The commission shall be entitled to call to its assistance and  
48 avail itself of the services of the employees of any State, county, or

1 municipal department, board, bureau, commission or agency, as it  
2 may require and as may be available for its purposes, and to employ  
3 stenographic and clerical assistance and incur traveling and other  
4 miscellaneous expenses as may be necessary in order to perform its  
5 duties, within the limits of funds appropriated or otherwise made  
6 available to the commission.

7  
8 7. The commission shall report its findings and  
9 recommendations to the Legislature, pursuant to section 2 of  
10 P.L.1991, c.164 (C.52:14-19.1), and the Governor within six months  
11 of its initial organizational meeting.

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13 8. This act shall take effect immediately and shall expire on the  
14 1st day of the 13th month after the commission submits its findings  
15 and recommendations to the Governor and the Legislature in order to  
16 respond to questions of the Governor or the Legislature, or to provide  
17 clarification regarding the commission's findings and  
18 recommendations.

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21 STATEMENT

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23 This bill establishes a 15 member commission, to be known as the  
24 Open Public Records Act Review Commission. The commission will  
25 examine how the open public records act, OPRA, is implemented and  
26 utilized in actual day-to-day situations.

27 At a minimum, the commission will:

28 review OPRA and examine how the statute compares with actual  
29 operation and use;

30 review and evaluate the use of anonymous requests;

31 determine if OPRA is meeting its goal of open government,  
32 balanced with the public's right to privacy;

33 examine how OPRA has been used for commercial, marketing,  
34 business, research, and harassing or frivolous purposes;

35 study the fine structure and overall costs of OPRA to taxpayers;

36 consider such other matters relating to OPRA as the members of  
37 the commission may deem appropriate; and

38 make recommendations for legislation or such other action as it  
39 deems appropriate with regard to improving, expanding, and  
40 facilitating OPRA.

41 The commission will report its findings and recommendations to  
42 the Legislature and the Governor within six months of its initial  
43 organizational meeting. The commission will expire one year after  
44 the commission submits its findings and recommendations to the  
45 Governor and the Legislature in order to respond to questions of the  
46 Governor or the Legislature, or to provide clarification regarding the  
47 commission's findings and recommendations.